

103^D CONGRESS
2^D SESSION

S. 2507

To amend the Federal Water Pollution Control Act to improve stormwater management, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 5 (legislative day, SEPTEMBER 12), 1994

Mr. BAUCUS (for himself and Mr. CHAFEE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to improve stormwater management, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stormwater Control
5 Reform Act of 1994”.

6 **SEC. 2. STORMWATER MANAGEMENT.**

7 Section 402(p) of the Federal Water Pollution Con-
8 trol Act (33 U.S.C. 1342(p)) is amended—

9 (1) by striking paragraph (1);

1 (2) by redesignating paragraph (2) as para-
2 graph (1);

3 (3) in paragraph (1) (as so redesignated)—

4 (A) by striking the matter preceding sub-
5 paragraph (A) and inserting the following:

6 “(1) IN GENERAL.—The requirements of para-
7 graph (4) for applications and the issuance of per-
8 mits for stormwater discharges shall apply to.”;

9 (B) in subparagraph (B), by inserting “or
10 commercial” after “industrial”;

11 (C) by striking “separate” each place it
12 appears in subparagraphs (C) and (D);

13 (D) by redesignating subparagraph (E) as
14 subparagraph (F); and

15 (E) by inserting after subparagraph (D)
16 the following new subparagraph:

17 “(E) A discharge from a municipal storm
18 sewer system serving a population of fewer than
19 100,000 individuals that is located in an urban-
20 ized area (as designated by the Bureau of the
21 Census) in which a stormwater discharge cov-
22 ered by a permit issued under subparagraph
23 (C) or (D) is also located.”;

24 (4) by inserting after paragraph (1) (as so re-
25 designated) the following new paragraph:

1 “(2) OTHER MUNICIPAL STORMWATER DIS-
2 CHARGES.—

3 “(A) MORATORIUM ON PERMITTING FOR
4 REMAINING URBANIZED AREAS.—

5 “(i) MUNICIPAL STORMWATER SYS-
6 TEMS.—Except as provided in clauses (iii)
7 and (iv), prior to October 1, 2001, neither
8 the Administrator nor the State (in the
9 case of a permit program approved under
10 subsection (b)) shall require a permit
11 under this section for discharges composed
12 entirely of stormwater from municipal
13 storm sewer systems serving a population
14 of fewer than 100,000 individuals that is
15 located in an urbanized area (as des-
16 ignated by the Bureau of the Census)
17 other than discharges described in para-
18 graph (1)(E).

19 “(ii) ADVANCE NOTICE OF PROPOSED
20 RULEMAKING.—Not later than 2 years
21 after the date of enactment of this sub-
22 paragraph, the Administrator shall publish
23 an advance notice of proposed rulemaking
24 that summarizes available information on
25 municipal storm sewer systems covered by

1 clause (i) and outlines the options being
2 considered for regulations under clause
3 (iii).

4 “(iii) REGULATIONS.—The Adminis-
5 trator may issue regulations specifying per-
6 mit application requirements for permits
7 for the discharges covered by clause (i)
8 prior to October 1, 1998, based on a deter-
9 mination by the Administrator that the
10 discharges would be appropriately regu-
11 lated by a permit issued pursuant to this
12 subsection. If the Administrator issues the
13 regulations, permits shall be issued or de-
14 nied for the discharges not later than 7
15 years after the date of enactment of para-
16 graph (3)(C).

17 “(iv) FAILURE TO ISSUE REGULA-
18 TIONS.—Notwithstanding clause (i), if the
19 Administrator fails to issue the regulations
20 described in clause (iii) prior to October 1,
21 1998, the discharges covered by clause (i)
22 shall be subject to the requirements of sec-
23 tion 301 and this section as of October 1,
24 1998.

1 “(B) EXEMPTION FROM PERMIT REQUIRE-
2 MENTS FOR NONURBANIZED AREAS.—Notwith-
3 standing section 301 or any other provision of
4 this section, a source of discharges composed
5 entirely of stormwater from municipal storm
6 sewer systems, other than the discharges de-
7 scribed in paragraph (1) or subparagraph (A),
8 is not required to obtain a permit for the dis-
9 charges under this Act.

10 “(C) CLARIFICATION.—Nothing in this
11 subsection shall be interpreted, construed, or
12 applied to modify the requirements of this Act
13 (including other provisions of this section) oth-
14 erwise applicable to discharges of stormwater
15 combined with domestic or industrial
16 wastewater.”;

17 (5) in paragraph (3)—

18 (A) in subparagraph (A)—

19 (i) by inserting “AND COMMERCIAL”
20 after “INDUSTRIAL”; and

21 (ii) by inserting “and commercial”
22 after “industrial”;

23 (B) in subparagraph (B)—

24 (i) by striking “and” at the end of
25 clause (ii);

1 (ii) by striking the period at the end
2 of clause (iii) and inserting “; and”; and

3 (iii) by adding at the end the follow-
4 ing new clause:

5 “(iv) shall include monitoring and re-
6 porting requirements that, at minimum,
7 provide for—

8 “(I) representative monitoring
9 for the quality of receiving waters;
10 and

11 “(II) reporting for the implemen-
12 tation of management measures.”;
13 and

14 (C) by adding at the end the following new
15 subparagraphs:

16 “(C) MAXIMUM EXTENT PRACTICABLE.—

17 “(i) MAXIMUM EXTENT PRACTICABLE
18 DEFINED.—As used in subparagraph
19 (B)(iii) (and with respect to permits issued
20 after the date that is 2 years after the date
21 of enactment of this subparagraph), the
22 term ‘maximum extent practicable’ means
23 applying management measures, as defined
24 in section 6217(g)(5) of the Coastal Zone
25 Act Reauthorization Amendments of 1990

1 (16 U.S.C. 1455b(g)(5)), for municipal
2 stormwater discharges that, in the judg-
3 ment of the Administrator (or a State au-
4 thorized to issue a permit under this sec-
5 tion), will attain and maintain water qual-
6 ity standards.

7 “(ii) GUIDANCE.—Not later than 2
8 years after the date of enactment of this
9 subparagraph, the Administrator, after
10 consultation with persons with expertise in
11 the management of stormwater (including
12 officials of local governments and rep-
13 resentatives of public interest groups),
14 shall—

15 “(I) establish requirements for
16 specific management measures for
17 municipal stormwater discharges
18 based on the guidance issued under
19 section 6217 of the Coastal Zone Act
20 Reauthorization Amendments of 1990
21 (16 U.S.C. 1445b) to define ‘maxi-
22 mum extent practicable’ for the pur-
23 poses of this section; and

24 “(II) if practicable, include in the
25 requirements minimum and objective

1 performance standards for each of the
2 management measures.

3 “(D) NUMERIC EFFLUENT LIMITATIONS.—
4 Notwithstanding section 301 and this section,
5 during the 10-year period beginning on the date
6 of enactment of this subparagraph, a permit is-
7 sued pursuant to this subsection for discharges
8 from municipal storm sewers composed entirely
9 of stormwater shall not require compliance with
10 numeric effluent limitations and water quality
11 standards shall not be applied or enforced as ef-
12 fluent limitations.

13 “(E) MUNICIPALLY OWNED AND COMMER-
14 CIAL DISCHARGES.—The Administrator (or a
15 State with a program approved under sub-
16 section (b)) may issue a consolidated permit for
17 discharges from a storm sewer system owned by
18 a municipality and the stormwater discharges
19 from industrial or commercial sources owned by
20 the same municipality.”;

21 (6) in paragraph (4)—

22 (A) by striking “(2)” each place it appears
23 and inserting “(1)”;

24 (B) in subparagraph (B)—

1 (i) by striking “(B) OTHER MUNICI-
2 PAL DISCHARGES.—Not later than” and
3 inserting the following:

4 “(B) OTHER MUNICIPAL DISCHARGES.—
5 “(i) IN GENERAL.—Not later than”;
6 and

7 (ii) by adding at the end the following
8 new clauses:

9 “(ii) DEADLINE FOR SUBMISSION OF
10 APPLICATION.—Applications for permits
11 for discharges from municipal storm sys-
12 tems that were not required to apply for a
13 permit before the date of enactment of this
14 clause because the systems are combined
15 storm and sanitary systems shall be filed
16 not later than 4 years after the date of en-
17 actment of this clause.

18 “(iii) EFFECTIVE DATE.—The re-
19 quirement for a permit under section 301
20 and this section shall apply to discharges
21 from municipal storm sewer systems de-
22 scribed in paragraph (1)(E) beginning on
23 the date of the expiration of a permit for
24 a discharge described in subparagraph (C)
25 or (D) of paragraph (1) that is located in

1 the same urbanized area and that occurs
2 after the date that is 3 years after the date
3 of enactment of this clause.”; and

4 (C) by adding at the end the following new
5 subparagraph:

6 “(C) COMMERCIAL AND LIGHT INDUSTRIAL
7 DISCHARGES.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii), the Administrator
10 shall, after notice and opportunity for pub-
11 lic comment, establish permit application
12 and other requirements for stormwater dis-
13 charges from commercial and light indus-
14 trial sources and ensure that permits
15 under this section for all sources are issued
16 as expeditiously as practicable, but no later
17 than 8 years after the date of enactment
18 of this subparagraph.

19 “(ii) EXCEPTIONS.—This subpara-
20 graph shall not apply to discharges from
21 sources that—

22 “(I) were required to submit ap-
23 plications for a permit by the rule
24 published by the Administrator at 55

1 Fed. Reg. 47990 (November 16,
2 1990);

3 “(II) are in a source or a class
4 for which an exemption to the permit
5 requirements of this section and sec-
6 tion 301 is granted before the date
7 that is 8 years after the date of enact-
8 ment of this subparagraph, pursuant
9 to paragraph (5); or

10 “(III) are owned or operated by
11 a municipality and are subject to a
12 consolidated permit as authorized by
13 paragraph (3)(E).

14 “(D) REGULATIONS.—The Administrator
15 shall publish a notice of proposed rulemaking
16 for the requirements described in subparagraph
17 (C) not later than 4 years after the date of en-
18 actment of this subparagraph and shall issue
19 final regulations relating to the requirements
20 not later than 6 years after the date of enact-
21 ment of this subparagraph.”; and

22 (7) by striking paragraphs (5) and (6) and in-
23 serting the following new paragraphs:

24 “(5) COMMERCIAL AND LIGHT INDUSTRIAL DIS-
25 CHARGES.—

1 “(A) IN GENERAL.—The Administrator
2 may exempt a class or category of commercial
3 and light industrial discharges composed en-
4 tirely of stormwater (other than discharges sub-
5 ject to permit application requirements pub-
6 lished at 55 Fed. Reg. 47990 (November 16,
7 1990)) from the requirement to obtain a permit
8 pursuant to section 301 and this section if the
9 Administrator determines based on available in-
10 formation that, considering controls and man-
11 agement measures installed at sources in the
12 class or category, stormwater discharges from
13 sources in the class or category have minimal
14 effect on water or sediment quality.

15 “(B) REGULATIONS.—

16 “(i) IN GENERAL.—The Administrator
17 shall issue regulations for classes or cat-
18 egories of discharges exempt under sub-
19 paragraph (A).

20 “(ii) CONTENTS.—Such regulations
21 shall, at a minimum, establish priorities,
22 establish requirements for State
23 stormwater management programs, and es-
24 tablish expeditious deadlines for compli-
25 ance with the requirements established by

1 the regulations. The regulations may in-
2 clude performance standards, guidelines,
3 guidance, and management practices and
4 treatment requirements, as appropriate.
5 The Administrator may, in making a de-
6 termination under subparagraph (A), take
7 into account controls and management
8 measures established pursuant to this sub-
9 paragraph.

10 “(iii) REFERENCES.—For purposes of
11 sections 309 and 505, any reference to a
12 permit issued under section 402 shall be
13 interpreted to include a requirement im-
14 posed by a regulation issued pursuant to
15 this subparagraph.

16 “(6) STORMWATER RESEARCH.—

17 “(A) IN GENERAL.—To determine the
18 most cost-effective and technologically feasible
19 means of improving the quality of the waters of
20 the Nation, the Administrator shall establish an
21 initiative through which the Administrator shall
22 fund State and local demonstration programs
23 and research to test innovative approaches to
24 address the impacts of hydrologic and hydraulic
25 changes, source controls, and water quality

1 management practices and controls for runoff
2 from municipal storm sewers. Persons conduct-
3 ing demonstration programs and research fund-
4 ed under the initiative shall also take into ac-
5 count the physical nature of episodic
6 stormwater flows, the varying pollutants in
7 stormwater, the actual risk the flows pose to
8 the designated beneficial uses, and the ability of
9 natural ecosystems to accept temporary
10 stormwater events.

11 “(B) AWARD OF FUNDS.—The Adminis-
12 trator shall award the demonstration and re-
13 search program funds taking into account re-
14 gional and population variations.

15 “(C) AUTHORIZATION OF APPROPRIA-
16 TIONS.—There are authorized to be appro-
17 priated to carry out this paragraph a total of
18 \$100,000,000 for the period consisting of fiscal
19 years 1995 through 2004. Such sums shall re-
20 main available until expended.

21 “(7) ADDITIONAL MONITORING SUPPORT.—Mu-
22 nicipalities subject to permits issued under this sub-
23 section shall be eligible for grants under section
24 319(h) to train and facilitate training of citizens in

- 1 citizen watershed monitoring activities to support
- 2 municipal stormwater management programs.”.

